

Study of the Incidence Adjustment in the Special Education Funding Model

Request for Proposals

November 2002

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I. PURPOSE

Through this Request for Proposals (RFP), the California Department of Education (CDE) invites eligible bidders to submit proposals to conduct a study regarding the incidence of disabilities in special education programs throughout California. The study will provide specific recommendations to the CDE, the Governor, the Department of Finance, and the Legislature regarding whether and how the special education funding model should be adjusted based on the incidence of disabilities.

Chapter 854, Statutes of 1997 (AB 602) established a new funding model for special education. This model provides funds to each of over 100 regional Special Education Local Planning Areas (SELPA) based on the number of pupils attending school in the region. The legislation required a study to evaluate whether funding for SELPAs under the new funding model should be adjusted to account for differing incidence of disabilities among SELPAs. As a result of this study, which was completed in 1998, incidence multiplier factors were developed and incorporated into the funding model. These factors are scheduled to expire on July 1, 2003. The study proposed in this RFP will include an examination of the effect of the existing special disabilities adjustments on the funding model and recommendations regarding the necessity of continuing to adjust the funding formula. The study will also update the incidence multiplier factors.

The anticipated start date for the contract is January 9, 2003. The actual start date is contingent on approval by the Department of General Services. The final report is due on August 1, 2003. A maximum of \$300,000 is available for the study.

II. BACKGROUND

A. Chapter 854, Statutes of 1997 (AB 602)

AB 602 made major revisions to the special education funding model. Previously, state funding had been calculated based on the number of classrooms provided for special education in each school district. Under AB 602, funding is instead provided to SELPAs based on the number of students (average daily attendance) attending schools in the region. The Legislature undertook reform of the special education funding model to simplify what had become an extremely complex system, to eliminate inappropriate fiscal incentives to identify children as special education, and to provide flexibility in program design.

The AB 602 funding model is based on the premise that the incidence of disabilities is relatively even across a region as large as a SELPA—thus the number of students is a valid workload measure for purposes of allocating funds. As part of AB 602, however, the Legislature required a

study to determine whether the funding model should be adjusted to account for differing incidence of disabilities among SELPAs.

The specific language requiring the study was as follow:

“The Office of the Legislative Analyst, in conjunction with the Department of Finance and the State Department of Education, shall conduct a study to gather, analyze, and report on data that would indicate the extent to which the incidence of disabilities, that are medically defined or severe and significantly above-average in cost, or both, are evenly or unevenly distributed among the population of special education local plan areas. The report shall include, if feasible and appropriate, a method to adjust the funding formula contained in Chapter 7.2 (commencing with Section 56836) of Part 30 of the Education Code in order to recognize the distribution of disabilities that are medically defined or severe and significantly above-average in cost, or both, among the special education local plan areas. The report shall use the definition of severe orthopedic impairment developed by the State Department of Education pursuant to Section 70.”

B. Previous Study

The Legislative Analyst’s Office issued an RFP for the study required by AB 602 and awarded a contract to the American Institutes for Research (AIR). AIR issued a final study in 1998 (available at http://www.lao.ca.gov/special_education_0998/special_ed_incidence_by_air.pdf).

The study team examined the incidence of a particular group of disabilities that were determined to be “medically defined or severe and significantly above average in cost, or both.” The team determined that the incidence of these disabilities varied significantly among SELPAs and recommended a methodology for accounting for these differences in the funding formula.

As a result of this study, incidence multiplier factors were developed and incorporated into the AB 602 funding model by SB 1564 (Chapter 330, Statutes of 1998). The laws governing funding of special education are in Chapter 7.2 of Part 30 of Division 4 of Title 2 of the Education Code, commencing with Section 56836. (Education Code sections may be accessed from <http://www.leginfo.ca.gov/cgi-bin/calawquery?code=edc&codebody=&hits=20>.) Section 56836.155, which was added by SB 1564, is the primary section governing the adjustment of the funding model based on the incidence of disabilities. Section 56836.155 requires that the funding model be adjusted based on the incidence of disabilities each year through 2002-03. It also requires a new study to be completed in 2003 regarding the incidence multiplier and the necessity of continuing to adjust the funding model.

C. Funding Model

This section describes in broad conceptual overview the current special education funding model—in particular the special disabilities adjustment. The description ignores complications related to growth in student population, cost-of-living adjustments, and recent statewide increases in the per-student funding amount. Bidders are encouraged to review the law and the funding model in greater detail. The calculations for the funding model are shown in detail in

funding displays available on the special education fiscal web site (http://www.cde.ca.gov/fiscal/special_ed/).

Under the AB 602 funding model, SELPAs receive special education funds based on the number of students (average daily attendance—ADA) attending public schools in the region. The rate per student is based on a target per-ADA amount in most cases, although some SELPAs receive a higher amount per ADA if they received higher amounts historically.

Under Section 56836.155, some SELPAs receive a special disabilities adjustment. The special disabilities adjustment equals an “incidence multiplier” factor times the target rate, times the SELPA’s average daily attendance. In some cases, the amount is reduced or eliminated if the SELPA has a high individual funding rate.

The special education fiscal web site shows the calculations used to develop the current incidence multipliers. The incidence multipliers were fixed in 1998 and have not been updated. The highest factor is 30 percent; 28 SELPAs have factors exceeding 5 percent.

D. The 2002 Budget Act

The 2002 Budget Act (Item 6110-001-0890, provision 23) includes \$300,000 in federal funds for a contract to study issues related to the special disabilities adjustment. The specific language is as follows:

“Of the funds appropriated in this item, \$300,000 shall be provided to fund a new study of the Special Disabilities Adjustment pursuant to Chapter 854 of the Statutes of 1997 (AB 602). Notwithstanding any other provision of law, the Department of Education shall contract to perform the followup study to update the incidence multipliers required by subdivision (f) of Section 56836.155 of the Education Code. This study shall include an examination of how the incidence multiplier affects the special education funding model and recommendations regarding the necessity of continuing to adjust the funding formula. Before entering into the contract, the Department of Education shall consider the advice of the Department of Finance and the Legislative Analyst regarding specific scope and design, and anticipated cost, of the study. On or before March 1, 2003, the Department of Education shall submit to the Legislature the results of this study.”

This RFP responds to the preceding language.

III. SCOPE OF THE STUDY

As indicated in the Purpose section, the primary thrust of the study will be to provide specific recommendations to the CDE, the Governor, the Department of Finance, and the Legislature regarding whether and how the special education funding model should be adjusted based on the incidence of disabilities. This goes beyond updating the incidence factors developed based on the previous study. The contractor must re-examine the incidence of disabilities at the SELPA level to determine whether there is significant variation across the state, determine whether any observed differences in incidence have a significant effect on the relative costs to SELPAs for

providing special education services, and develop a method to adjust the funding formula that does not create inappropriate fiscal incentives for identifying students as needing special education or for placing students in particular programs. In addition, the budget language specifically requires the study to examine the effect of the existing special disabilities adjustments on the funding model, provide recommendations regarding the necessity of continuing to adjust the funding formula, and update the incidence multiplier factors.

A. Activities and Timeline

A draft interim report must be submitted by April 1, 2003. A final interim report that responds to CDE comments must be submitted by April 15, 2003.

The purpose of the interim report is to provide sufficient information about the progress of the study to inform policy makers regarding the funding adjustments that should be incorporated in the 2003-04 state budget for special education. In the interim report, the contractor must provide preliminary answers to the questions posed in the next section, focusing in particular on the questions regarding whether or not the funding model should be adjusted based on the incidence of disabilities, what methodologies should be considered to perform the adjustments, and what the costs of the adjustments are likely to be.

A draft final report must be submitted by July 15, 2003. A final report that responds to CDE comments must be submitted by August 1, 2003.

The draft final and final reports to be submitted by the contractor must summarize the contractor's research and must answer in detail all of the questions posed in the next section. The reports must include specific recommendations regarding changes to the funding model for incorporation into legislation.

B. Questions To Be Addressed

In the response to the RFP, a bidder must submit a proposal that describes the focus and design of the study. The study design must delineate strategies and methodologies for data collection and analysis. In responding to this RFP, bidders must specifically identify how the bidder proposes to address each of the following questions:

1. What "true" differences, if any, exist among SELPAs in the incidence and mix of disabilities (severity and type)? In this context, "true" differences means differences that are the result of underlying population differences, not reporting differences or differing program designs or cost structures.
2. What effect do the population differences have on the expected mix of services that must be provided and the expected costs of providing those services?
3. Are differences in the populations and the resulting differences in services and costs significant enough from a public policy perspective to justify adjustments in a funding formula?
4. Are the data accurate and sufficiently reliable to be used in a funding formula?

5. Are there alternative proxy measures that are independent of reporting by schools that would provide an accurate indicator of the level of expected disability?
6. What alternative methodologies are available for adjusting the funding formula to account for the observed differences, consistent with the goals of AB 602 (for example: simplification, programmatic flexibility, and elimination of inappropriate fiscal incentives for identifying students as needing special education or for placing students in particular programs)? What is the most fair and feasible method among the alternatives considered?
7. What are the effects of the adjustment methodology and the particular incidence multiplier factors used on SELPA funding levels in the existing model?
8. What specific changes are warranted in the funding model to accommodate a funding adjustment to reflect differences in the level of disabilities? What are the relevant factors that should be incorporated? What is the estimated cost of implementing the recommended changes?

Responses to this RFP must include discussion of any anticipated theoretical or practical problems associated with the completion of each task, and proposed solutions, alternatives, or contingency plans related to these problems as appropriate.

C. Roles and Responsibilities of CDE Staff

CDE expects the contractor to work closely with CDE staff assigned to this project. The roles and responsibilities of CDE staff are to meet and confer with the contractor about project implementation on a monthly basis. Tasks of CDE staff shall include, but not be limited to, the review and approval of data collection instruments and techniques, data analysis techniques, and the draft report.

CDE will convene a small advisory group to assist in oversight of the progress of the study. The advisory group will meet, as needed, in conjunction with the monthly meetings. Members will include representatives from the state Department of Finance and the Legislative Analyst's Office.

The proposal must address how the bidder proposes to collaborate with CDE staff. A bidder must include in project timelines sufficient time for review and comment by CDE staff and advisory group members at various stages of the contract. A bidder must also include funds in its budget for staff time and travel costs following the completion of the final report for briefing legislative staff and testifying at legislative committee hearings. For purposes of developing a budget, bidders should assume a maximum of six meetings, each requiring a full day in Sacramento.

D. Stakeholder Group

The contractor must convene a stakeholder group, consisting of up to 15 members, which would include representatives from various educational agencies at the state and local levels. This group would assist the contractor in issue identification and information gathering.

A bidder must budget for a minimum of three meetings with the stakeholder group, in Sacramento. The contractor will be responsible for procuring space for the meeting and meeting

logistics. The budget must include sufficient funding to pay travel costs for members chosen from communities throughout California. The proposal must include the number and schedule of stakeholder group meetings to be held and a description of how the bidder intends to select stakeholder group members; to use the stakeholder group to enhance the quality of the information collected by the contractor and recommendations; and to present information to, and secure responses from, the stakeholder group throughout the contract period other than at the scheduled meetings.

E. Deliverables

The contractor must provide the deliverables listed below to the contract monitor in the Fiscal and Administrative Services Division at the CDE.

1. Monthly written progress reports to accompany monthly invoices. These monthly reports must contain a description of tasks begun, in progress, and completed; where relevant, decisions made and their rationale and problems encountered with proposed solutions; and major activities for the following month.
2. Draft and final copies of all memoranda to the field, data collection instruments, and materials intended for use with the agencies and respondents participating in the study, if the contractor intends to collect new data. (All such materials must be submitted to CDE at least two weeks before their proposed use and must be approved by CDE prior to their use or release.)
3. On or before April 1, 2003, a draft of the interim report, as described in the Activities and Timeline section, above. The draft must include an executive summary and recommendations. The contractor must submit 20 complete hard copies of the report plus an electronic copy (PDF format). CDE will review this report and provide comments to the contractor for inclusion in the final report by April 8, 2003.
4. On or before April 15 2003, the interim report for transmission to the Governor, the Department of Finance, and the Legislature. The contractor must submit 20 complete hard copies of the report plus an electronic copy (PDF format).
5. On or before July 15, 2003, a draft of the final report, as described in the Activities and Timeline section, above. The draft must include an executive summary and recommendations. The contractor must submit 20 complete hard copies of the report plus an electronic copy (PDF format). CDE will review this report and provide comments to the contractor for inclusion in the final report by July 22, 2003.
6. On or before August 1, 2003, the final report for transmission to the Governor, the Department of Finance, and the Legislature. The contractor must submit 20 complete hard copies of the report plus an electronic copy (PDF format).

IV. GENERAL PROPOSAL INFORMATION

A. Eligible Bidders

Public or private corporations, agencies, organizations or associations may submit applications in response to this RFP. Agencies that have an interest in the provision of goods and services to children in foster care are not eligible to bid. The applicant must be legally constituted and qualified to do business within the State of California (registered with the Secretary of State). With the exception of bidders whose legal status precludes incorporation (i.e. public agencies, sole proprietorships, partnerships), bidders that are not fully incorporated by the deadline for submitting proposals will be disqualified.

B. Letter of Intent to Submit a Bid

CDE will only accept proposals for which a faxed or mailed letter of intent to submit a bid is received by 3:00 p.m. on November 18, 2002 (see Attachment 8).

C. Questions About the RFP

In lieu of a bidder's conference, CDE will respond to questions from bidders. Questions must be mailed or faxed to the address shown on the cover page of this RFP, attention Carol Bingham, or e-mailed to cbingham@cde.ca.gov, and received by 3:00 p.m. on November 19, 2002. All questions and responses will be sent via-e-mail to all organizations submitting a Letter of Intent to Submit a Bid.

D. Contract Funding and Time Period

A maximum of \$300,000 will be available for the study. It is anticipated that the contract will begin on approximately January 9, 2003. The final report must be submitted on August 1, 2003. The actual starting and ending dates of the contract are contingent upon approval of the contract by the Department of General Services.

CDE reserves the right to cancel the contract after conclusion of the first phase, or at any time during the contract period, if it believes the contractor has not performed, is not performing, or is unable to perform, as required by the contract.

Issuance of this RFP does not require the CDE to award a contract for this study.

E. RFP Schedule

- | | |
|-------|---|
| 11/5 | RFP is released. |
| 11/18 | Letter of Intent to Submit a Bid must be received via fax or mail by 3:00 p.m. for those applicants wishing to continue in the competition. |
| 11/19 | Questions on the RFP must be received in writing by 3:00 p.m. |

- 11/20 Responses to all questions submitted will be issued to all bidders.
- 12/6 Proposals due by 10:00 a.m.
- 12/9-10 Review and rating of technical proposals.
- 12/11 Public opening of cost/price proposals at 4:00 p.m.
- 12/12-19 Five-day posting period.
- 12/19 Notification by mail of the successful bidder.
- 1/9 Estimated contract start date. (The actual starting date of the contract is contingent upon approval of the contract by the Department of General Services.)

V. PROPOSAL SPECIFICATIONS

A. Submission of Technical Proposals

Submitted proposals must comply with the both the requirements specified in this section and the requirements specified in Section C, Technical Proposal. The proposal must demonstrate the bidder's ability to meet all of the qualifications, requirements, and standards specified in this RFP. Each section must be well organized and succinct. Ample detail must be provided about each phase of contract operation so that a complete picture of the strategies, methods and products is presented.

One signed original and nine copies of the technical proposal must be received at this address by 10:00 a.m. on December 6, 2002:

Fiscal and Administrative Services Division
California Department of Education
1430 "N" Street, Room 2213
Sacramento, CA 95814

Incomplete or late proposals will be considered non-responsive and will not be reviewed for funding. They will not be accepted and will be returned to the sender marked "LATE RESPONSE." Bidders are advised to use express, certified, or registered mail. Transmission by electronic mail (modem) or facsimile (fax) is not acceptable.

Submission of a proposal constitutes a release of information and waiver of the individual's right of privacy with regard to information provided in response to the RFP. Ideas and formats presented in any proposal will become the property of the CDE.

Technical proposals must be clearly labeled on the outside of the envelope as follows:

Technical Proposal
Study of the Incidence Adjustment in the Special Education Funding Model

DO NOT INCLUDE ANY FINANCIAL INFORMATION IN THE TECHNICAL PROPOSAL.

B. Technical Proposal

The technical proposal must be presented in a narrative form demonstrating ability to meet all qualifications, requirements, and standards specified in this RFP. Each copy of the proposal must contain the sections listed below. Do not attach pamphlets, letters of support (except from any proposed subcontractors) or other items that are not specifically requested in this section.

Proposals are limited to 35 double-spaced pages, in no smaller than 10-point font, to describe the scope of work for the proposed contract period. The 35-page limit applies to the sections on general approach, detailed study design, work plan, management and staffing (excluding personnel résumés), and related experience. Each page of the proposal must be numbered consecutively at the bottom of the page. Each of the copies must be stapled in the upper left-hand corner.

1. The **Cover Letter** must be signed by the individual qualified to make the offer to perform the work described. In the case of organizations, an individual signing this letter must indicate his or her position title, certifying that he or she is authorized to make the offer on behalf of the organization.
2. The **Table of Contents** must identify major points of discussion by page.
3. The **General Approach** must provide an overview of the approach to be taken in providing the services described in the scope section of this RFP.
4. The **Detailed Study Design** must provide an extensive description of the approach the contractor proposes to use to address each question identified in the Questions To Be Addressed section of this RFP. The description must provide sufficient detail for proposal reviewers to assess the proposed overall approach.

At a minimum, the study design must delineate strategies and methodologies for data collection and analysis and must discuss any anticipated theoretical or practical problems associated with the completion of each task, and proposed solutions, alternatives, or contingency plans related to these problems as appropriate.

5. The **Work Plan** must describe in detail the tasks and activities to be undertaken in each phase of the project as identified in the Activities and Timeline section of this RFP. A bidder must relate the work plan to the questions identified in the Questions To Be Addressed section of this RFP.

The Work Plan section must also cover:

- How the bidder proposes to collaborate with CDE staff
 - How the bidder intends to select stakeholder group members; to use the stakeholder group to enhance the quality of the information collected by the contractor; and to present information to, and secure responses from, the stakeholder group throughout the contract period other than at the scheduled meetings, consistent with Part III, Section D.
6. The **Management and Staffing** section must present a plan for the internal management of contract work that will ensure accomplishment of the tasks. This section of the proposal must include the following information:
- A staff organizational plan/chart for the study that identifies, by name, staff to be assigned to the project and shows the project's relationship to the company's structure.
 - The amount of time to be devoted to each task.
 - Lines of responsibility and approval authority.
 - The name of the person to act as project director.
 - A clear description of the relationship of each position to the work plan and the amount of time each staff person will spend on the project.
 - Identification of the individuals proposed to fill professional positions with accompanying résumés that are sufficiently detailed to allow an evaluation of the person's competency and expertise.

If a subcontractor will be used, this section must include letters of commitment from the subcontractor(s) and documentation of ability to fulfill the scope of work. The letters must specify the tasks to be performed by the subcontractor. Résumés must be provided for professional positions that are sufficiently detailed to allow an evaluation of the person's competency and expertise.

Do not include any subcontractor rate information in the technical proposal.

7. The **Related Experience** section must describe the experience of the bidder in providing services required, including discussion of previous related work. This section must address the following specific experience and expertise requirements.

The bidder must show clear evidence of a minimum of two years of experience (one of which must be within the last three years) in the development of projects similar to that described in this RFP.

The bidder must show clear evidence that the project manager, any subcontractor(s) collecting research data, all key staff including chief investigators, and researchers assigned to this project have at least two years' experience in carrying out their proposed responsibilities for projects of comparable scope and size in public agencies.

In addition, a bidder must show clear evidence that its project team includes professional staff who have knowledge of, and at least two years' experience with, the following:

- Policy analysis related to education programs.
- Policy analysis related to funding systems.

- Performance of quantitative and qualitative research in public schools and in special education.
8. The **Examples of Previous Work** section must describe at least two studies performed by the bidder that will demonstrate the bidder's capability to perform the work required in this RFP. These two studies must be of comparable size and scope to the work in this RFP. A bidder must provide at least three copies of final reports of these studies with the technical proposal.
 9. The **References** section must include at least three client reference letters relevant to the scope and complexity of the services required by this RFP. These reference letters must include a description of the services performed, the date of these services, and the name, address, and current telephone number of the client reference.

This section must also include a listing of contracts undertaken within the past three years for the CDE as well as for all other California state and local government agencies. Each entry must indicate the dates of service and the name, address, and current telephone number of the client reference.
 10. The **Nondiscrimination Compliance Statement (STD. 19)** must be signed and dated with an original signature with each copy of the proposal (Attachment 1).
 11. The **Small Business Preference Sheet** must be completed (Attachment 2). If the preference is being claimed, include a copy of the certification letter from OSDC.
 12. The **Disabled Veteran Business Enterprise (DVBE)** attachments (Attachments 3, B and C) must be completed in accordance with instructions. In addition, a copy of the certification letters from OSCD and a commitment letter must be included for each DVBE listed on Attachment B.
 13. The Certifications Regarding Lobbying, Debarment, Suspension and Other Responsibility Matters, and Drug-Free Workplace Requirements (Attachment 7) must be signed and submitted.
 14. The Drug-Free Workplace Certification (Attachment 4) need not be completed and returned with the proposal. However, certification is a condition of receipt of the contract.

C. Cost/Price Proposal

One signed original and nine copies of the cost/price proposal must be submitted in a separate, sealed envelope at the same time and place as the technical proposal. The outside of the sealed envelope containing the cost/price proposal must read:

Cost/Price Proposal
Study of the Incidence Adjustment in the Special Education Funding Model

Do not open before December 11, 2002, 4:00 p.m.

The cost/price proposal must contain, at a minimum, all of the following information:

1. Labor cost detail, including hourly or billing rates for all personnel and the total number of hours projected for each phase of the project.
2. Operating expense detail for line items of \$500 or more including travel, software, and the bidder's indirect costs for the proposed activities. (Please note that this contract does not allow for the purchase of equipment.)
3. Identification of costs by task and the total for the entire project.
4. Any subcontractor expenses, displayed in the same manner as the preceding.

VI. MONITORING

For the duration of this contract, the contractor must plan for monthly meetings in Sacramento with staff from the Fiscal and Administrative Services Division monitoring the contract. Staff from the CDE advisory group may also attend these meetings. The purpose of the meetings is for the contractor to provide written and verbal reports about the progress of the contract to ensure that timelines are being met, to cooperatively resolve issues as they arise, and to share information pertinent to the studies. In addition, the contractor must submit monthly progress reports of activities in conjunction with monthly invoices.

VII. CONTRACT TERMS AND REQUIREMENTS

A. Compensation

Payments will be made in arrears on a monthly basis upon receipt of an itemized invoice and a progress report of activities. The State shall retain from each payment an amount equal to 10 percent of the payment. Release of the 10 percent is contingent upon the contractor's satisfactory completion, and CDE's acceptance, of all of the work required under the contract. Final payment will not be made until acceptance of satisfactory contracted work and completion of a Std. 4 Contract/Contractor Evaluation by the state contract monitor.

All travel costs shall be reimbursed at rates not to exceed those established for CDE's non-represented employees computed in accordance with and allowable pursuant to applicable Department of Personnel Administration regulations. (See Attachment 5.)

Surplus funds from a given line item of the budget, up to 10 percent of that line item, may be used to defray allowable direct costs under other budget line items with prior CDE approval. Any budget line item change of more than 10 percent requires a contract amendment and approval by the State Department of General Services. Changes cannot be made which increase the rates of reimbursement.

B. Staff Hiring and Replacement

The contractor will be required to confer with and to obtain prior approval from the CDE contract monitor before hiring or otherwise changing professional project personnel.

C. Ownership of Materials

The information collected, the data collection instruments used, the reports prepared and submitted to the CDE, and all other materials developed under the terms of this agreement will become the property of the CDE. Any use of these materials by the contractor for reasons separate from completion of contract requirements, during or subsequent to the contract period, may be done only with written permission of the CDE. It is incumbent upon the contractor to secure this permission. The CDE reserves the exclusive right to copyright such material and to publish, disseminate and otherwise use materials developed under the terms of this contract.

The contractor, in conjunction with CDE staff, may publish the results of this work in professional journals or present the results at conferences and meetings. However, such publications or presentations must occur only after involvement and discussion with the CDE to ensure appropriate protection of all organizations and individuals involved, as well as appropriate timing of the release of information.

D. Retention of Records

The contractor shall maintain accounting records and other evidence pertaining to costs incurred, with the provision that the contractor shall keep them available during the contract period and thereafter for five full years from the date of the final payment. The CDE must be permitted to audit, review, and inspect the contractor's activities, books, documents, papers and records during progress of the work and for five years following final payment.

E. Purchase of Equipment

The purchase of equipment will not be reimbursed under the terms of this contract.

F. National Labor Relations Board Certification

By signing the contract, the contractor swears under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against the contractor within the immediately preceding two-year period because of the contractor's failure to comply with an order of a Federal Court which orders the contractor to comply with an order of the National Labor Relations Board. (Not applicable to public agencies.)

G. Anti-trust Claims (Government Code Sections 4552-4554)

In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 USC Section 15) or under the

Cartwright Act (Chapter 2) commencing with Section 16700 of Part 2 of Division 7 of the Business and Professions Code, arising from purchases of goods, materials or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder.

If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.

Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action.

H. Recycled Paper Certification (Public Contract Code Sections 10308.5/10354)

By signing the contract, the contractor agrees to certify in writing to the CDE, under penalty of perjury, the minimum, if not exact, percentage of recycled content, both post-consumer material and secondary material as defined in Public Contract Code Sections 12161 and 12200, in materials, goods or supplies offered or products used in the performance of the contract, regardless of whether the product meets the required recycled product percentage as defined in sections 12161 and 12200. The contractor may certify that the product contains zero recycled content.

I. Air or Water Pollution Violations (Government Code Section 4477)

By signing the contract, the contractor swears under penalty of perjury that the contractor is not (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to a cease-and-desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibition; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution. This provision does not apply to public agencies.

J. Child Support Compliance Certification (Public Contract Code Section 7100)

By signing this agreement, the contractor acknowledges that (a) it recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement including, but not limited to, disclosure of information and compliance with earnings assignment orders as provided in Chapter 8 (commencing with Section 5200) of part 5 of Division 9 of the Family Code; and (b) to the best of its knowledge it is fully complying with the earnings assignment orders of all employees and

is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

K. Computer Software Copyright Compliance

By signing the contract, the contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this contract for the acquisition, operation or maintenance of computer software in violation of copyright laws.

L. Union Organizing and Activities

By signing the contract, the contractor acknowledges the applicability to the contract of Government Code Section 16645 through Section 16649. Contractor will not assist, promote or deter union organizing by employees performing work on a state service contracting, including a public works contract. No state funds received under this agreement will be used to assist, promote or deter union organizing. Contractor will not, for any business conducted under this agreement, use any state property to hold meetings with employees or supervisors if the purpose of such meetings is to assist, promote or deter union organizing, unless the state property is equally available to the general public for holding meetings. If the contractor incurs costs or makes expenditures to assist, promote or deter union organizing, the contractor will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs. The contractor shall provide these records to the Attorney General upon request.

By signing the contract, the contractor certifies that no request for reimbursement or payment under this agreement will seek reimbursement for costs incurred to assist, promote or deter union organizing.

VIII. EVALUATION PROCESS

Each proposal will be evaluated to determine responsiveness to the requirements and standards as described in this RFP. The CDE reserves the right to reject any or all proposals. Nothing herein requires the awarding of a contract in response to this RFP. The selection process complies with the requirements for competitive bidding in the Public Contract Code Section 10344(b) requiring prospective bidders to submit their technical proposals and cost/price proposals in separate sealed envelopes.

Each technical proposal will be opened and evaluated using a two-step process. Step I consists of three parts. The initial two parts of the first step pertain to proposal requirements (Part 1) and minimum qualifications (Part 2). Proposals will be evaluated on a yes/no basis for all criteria in these two parts of Step I (see Section X for the rating criteria). Receipt of a “no” will result in elimination of the proposal from further consideration. Step I, Part 3, technical proposal evaluation, will yield numeric score ratings. A review panel will rate proposals on the specified criteria (see Section X). Any technical proposal receiving a rating of less than 99 points will be rejected.

The second step (Step II) of the process is the public opening of the envelope containing the cost/price proposal. Only those bidders with technical proposals passing the first step of the process will have their envelopes opened and read. Opening of the cost/price proposals will occur on December 11, 2002. The Small Business preference will be computed if required documentation is included in the proposal and adjustments to bid prices will be made accordingly.

The contract will be awarded to the lowest responsible bidder meeting the specifications as described above.

A notice of the proposed contractor to receive the award will be posted for five working days beginning December 12, 2002, at the CDE Cashier's Office, 1430 "N" Street, Second Floor. After the five-day notice has been completed, the proposed awardee will be formally notified by mail. During the same period, proposals and rating sheets will be available for public inspection at the Fiscal and Administrative Services Division.

IX. CONTRACT AWARD PROTEST PROCEDURES

If prior to the formal award, any bidder files a protest with the Department of General Services against the awarding of the contract, the contract shall not be awarded until either the protest has been withdrawn or the Department of General Services has decided the matter. Within five days after filing the protest, the protesting bidder shall file with the Department of General Services a full and complete written statement specifying the grounds for protest. Protests shall be limited to those specified in Public Contract Code Section 10345. (Attachment 6 describes the protest procedures to be followed by a bidder filing a protest.)

X. RATING CRITERIA AND EVALUATION FORM

 Company Name

CDE staff will complete this form.

Step I, Part 1. Adherence to Proposal Requirements

These items will be rated on a Yes/No basis. "No" on any item eliminates the proposal from further consideration.

- | | |
|--|--|
| <input type="checkbox"/> Yes <input type="checkbox"/> No | 1. Letter of Intent to Submit a Bid received by the deadline. |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | 2. One original and nine copies of the technical proposal and sealed envelope containing the separate cost/price proposal received by the deadline. |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | 3. Copies of the cost/price proposal submitted in a separate, sealed envelope. |
| | 4. Required forms submitted with each copy of the technical proposal: |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | • Nondiscrimination Compliance Statement (Attachment 1) completed with original signatures on each copy. |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | • Small Business Preference Sheet (Attachment 2) completed and a copy of the OSCD certification letter included if the preference is being claimed. |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | • Certifications Regarding Lobbying, Debarment, Suspension and Other Responsibility Matters, and Drug-Free Workplace Requirements (Attachment 7). |
| | • Drug-Free Workplace Certification (Attachment 4). (Note: This form need not be completed and returned with the proposal. However, certification is a condition of receipt of the contract.) |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | 5. Technical proposal is no more than 35 double-spaced pages, in no smaller than 10-point font, and meets any other format requirements presented in this RFP. |
| | 6. Technical proposal includes all required sections and/or topics: |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | • Cover Letter signed by an authorized representative |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | • Table of Contents |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | • General Approach |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | • Detailed Study Design |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | ○ A description of the approach the bidder proposes to use to address each question identified in the Questions To Be Addressed section. |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | ○ A description of the proposed strategies and methodologies for data collection, and |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | ○ A discussion of any anticipated theoretical or practical problems associated with the completion of each task, and solutions, alternatives, or contingency plans related to these problems should be proposed as appropriate, for both phases of the contract. |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | • Work Plan |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | ○ Timeline displaying proposed task initiation and completion dates, responsible personnel, and levels of effort (i.e., hours) by task for proposed personnel |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | ○ How the bidder proposes to collaborate with CDE staff |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | ○ How the bidder intends to select stakeholder group members; to use |

the stakeholder group to enhance the quality of the information collected by the contractor; and to present information to, and secure responses from, the stakeholder group throughout the contract period other than at the scheduled meetings

- | | |
|--|--|
| <input type="checkbox"/> Yes <input type="checkbox"/> No | • Management and Staffing |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | ○ A staff organizational plan/chart for the study that identifies, by name, staff to be assigned to the project and shows the project's relationship to the company's structure |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | ○ The amount of time to be devoted to each task |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | ○ Lines of responsibility and approval authority |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | ○ The name of the person to act as project director |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | ○ Description of the relationship of each position to the work plan and the amount of time each staff person will spend on the project |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | ○ Identification of the individuals proposed to fill professional positions |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | ○ Résumés for all individuals proposed to fill professional positions that are sufficiently detailed to allow an evaluation of the person's competency and expertise |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | ○ Letters of commitment from subcontractor(s) that specify the tasks to be performed by the subcontractor and document the subcontractor's ability to fulfill the scope of work |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | • Related Experience |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | ○ Description of two studies performed by the bidder and three copies of final reports from these studies |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | ○ Three client reference letters relevant to the scope and complexity of the services required by this RFP that include a description of the services performed, the date of these services, and the name, address, and current telephone number of the client reference |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | ○ Listing of contracts undertaken within the past three years for the CDE as well as for all other California state and local government agencies, with the dates of service and the name, address, and current telephone number of the client reference |

Step I, Part 2. Minimum Qualifications

These items will be rated on a Yes/No basis. "No" on any item eliminates the proposal from further consideration.

- ☐ Yes ☐ No 1. The bidder has a minimum of two years of experience (one of which must be within the last three years) in implementing projects similar to the studies described in this RFP.
- ☐ Yes ☐ No 2. The project manager, any subcontractor(s) collecting and/or analyzing research data, all key staff including chief investigators, and researchers assigned to this project have at least two years' experience in carrying out their proposed responsibilities for projects of comparable scope and size in public agencies.
- 3. The project team includes professional staff who have knowledge of, and at least two years' experience with, the following:
 - ☐ Yes ☐ No • Policy analysis related to education programs.
 - ☐ Yes ☐ No • Policy analysis related to funding systems.
 - ☐ Yes ☐ No • Performance of quantitative and qualitative research in public schools and in special education.

Step I, Part 3. Technical Proposal Evaluation Criteria

A panel will review the technical proposals on the criteria listed below. Proposals will be scored based on the adequacy and thoroughness of their response to the RFP requirements. A total score of 110 points is possible. Any proposal receiving fewer than 99 points will be rejected.

- 1. Understanding of the Project (10 points)
 - a. Degree of understanding of the purpose and scope of the study (5 points).
 - b. Degree of understanding of the complexity of and rationale for the current funding system for special education (5 points).
- 2. Technical Quality of Proposal (60 points)
 - a. Appropriateness and comprehensiveness of the general approach and detailed study design in addressing the issues to be studied and in identifying appropriate data collection and analysis methodologies (20 points).
 - b. Degree to which conceptual or methodological issues are addressed, and proposed solutions are sound (10 points).
 - c. Adequacy of proposed techniques to comprehensively and rigorously address the questions identified in the RFP (15 points).
 - d. Clarity and feasibility of the work plan to accomplish the required tasks in each phase of the project; provide for the required deliverables within the specified timeline; interact with CDE staff and the stakeholder group; and address the design of the study (15 points).

3. Adequacy of Management and Staffing Plan (10 points)

- a. Quality of the overall project and company management plans, the degree to which they ensure the efficient operation of the project to fulfill the contract requirements and accomplish project tasks, including lines of responsibility and approval authority, the name of the person to serve as project director, and reporting relationships within the project and the company (5 points).
- b. Quality and appropriateness of the project organizational and staffing plans and the extent to which they reflect adequate time commitment to each task, name assigned project staff for each task, draw upon staff's similar past experience to undertake assigned tasks, and indicate the relationship of each position to the work plan as illustrated in the staff organizational chart (5 points).

4. Experience and Expertise of Proposed Staff (15 points)

- a. Appropriateness and applicability of the experience and expertise of proposed staff for the design and implementation of this project, including knowledge and experience as identified in the Related Experience section (5 points).
- b. Extent to which the résumés of proposed staff to fill professional positions allow for evaluation of the competency, experience, and expertise of these individuals (5 points).
- c. Extent to which the Related Experience section adequately describes the experience of the bidder in providing the services required in this RFP, and the extent to which it addresses the specific experience and expertise requirements described in this RFP (5 points).

5. Previous Work and References (15 points)

- a. Quality of the previous work samples submitted and the degree to which they reflect sound organization, clear logic, overall readability, and relevance to the proposed project, and the extent to which problems are clearly stated, alternatives explored, and logical solutions presented (10 points).
- b. The strength of client references, and relevance of the work performed to the scope and complexity of the work required by this RFP, and the completeness and relevance of references including a description of the services performed, the date of these services, and the purpose for which the services were rendered (5 points).